

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

ILLINOIS COMMERCE COMMISSION)	
On Its Own Motion)	
)	
vs.)	
)	
AMEREN ILLINOIS COMPANY)	
d/b/a Ameren Illinois)	
)	
Reconciliation of revenues collected)	Docket No. 11-0341
under Rider EDR with the actual costs)	
associated with energy efficiency and)	
demand-response plans.)	
)	
Reconciliation of revenues collected)	
under Rider GER with the actual costs)	
associated with natural gas energy)	
efficiency plans.)	

INITIAL BRIEF OF THE NATURAL RESOURCES DEFENSE COUNCIL

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INTRODUCTION

This docket is a reconciliation of expenses under two Ameren Illinois (“Ameren”) Riders: Rider EDR, Energy Efficiency and Demand-Response Cost Recovery (“Rider EDR”), and Rider GER, Gas Energy Efficiency Cost Recovery (“Rider GER”). The Natural Resources Defense Council (“NRDC”) intervened in this proceeding when it became aware that the Commission Staff (“Staff”) has proposed a standard of review for reconciliation of utility investment in Gas Energy Efficiency programs under Rider GER that resulted from the Final Order in ICC Docket No. 08-0104. As set forth below, NRDC believes that adoption of the Staff’s recommendation will severely inhibit the development of an energy efficiency program that uses a wide range of innovative methods that can benefit all customer groups. The Commission Staff proposal to

deny the recovery of certain expenses of Ameren is contrary to public policy, the Public Utilities Act and this Commission's previous orders.

Staff witness Ms. Hinman recommends a disallowance of all Plan Year ("PY") 2 costs incurred when implementing the Small Business (SB) HVAC Program and recovered through Rider GER for PY 2. That recommendation was based on her belief that Ameren acted unreasonably when it continued the SB HVAC program in PY 2 in light of information it received on the cost effectiveness of that program. More particularly, she testified that because Ameren had evidence that the SB HVAC program may fail the Total Resource Cost ("TRC") test in PY 2, the continuance of that program was not prudent. Staff Ex. 2.0, at 4-19. The underlying basis of her testimony is the Staff's position that each year the TRC test must be applied at a program level rather than at a portfolio level and adjustments made to the energy efficiency program based on those results. Staff Ex. 4.0 at 11-13.

ARGUMENT

A. Policy Analysis

The Staff proposal should be rejected. The adoption of a rule that utilities should terminate programs that may not pass the TRC test in the next year, irrespective of broad-based benefits of those programs, would have a serious negative impact on the development of effective energy efficiency in Illinois. As noted by Ameren witness Mr. Woolcutt, such a rule would encourage utilities to overemphasize measures that obtain short term benefits and would discourage them from proposing programs leading to long term benefits, such as penetrating underserved markets and developing a robust energy efficiency portfolio. Ameren Ex. 6.0 at 10. NRDC believes that utilities must have the flexibility to balance several factors in their

portfolios, only one of which is the TRC test. Ameren witness Mr. Chamberlin articulated several ways in which programs that fail the TRC test may still provide a valuable addition to a portfolio:

- a) The program is a trial of an emerging technology,
- b) The program reaches a market segment not otherwise able to participate in energy efficiency programs,
- c) The program is expected to break down market barriers.
- d) The program creates some additional value not easily measured by TRC, such as lighting programs that improve workplace productivity
- e) The program takes several years to mature. As noted by Mr. Chamberlin, this is particularly true of programs such as the SB HVAC program that require the engagement of allies.

Ameren Ex. 5.0, Chamberlin Rebuttal at 7-8

NRDC agrees with Mr. Chamberlin that each of these factors are valid reasons for including in a portfolio a program that is not cost effective when solely measured by the TRC test. This is not to say that a utility should not reevaluate each program in its portfolio and make appropriate adjustments each year. Utilities should regularly evaluate their programs and make adjustments to enhance their value. That value, however, must not be limited to the TRC test as proposed by the Staff. It should also include the elements listed above.

Ameren has provided evidence that the SB HVAC program provides significant value to Ameren's portfolio that is not recognized in the TRC test. Mr. Chamberlin testified that the SB HVAC program is designed to increase the overall portfolio effectiveness through its outreach to a customer segment that would otherwise have limited ability to participate in the energy efficiency programs and through the development of a trade ally network. Ameren Ex. 5.0, Chamberlin Rebuttal at 16.

Mr. Woolcutt addressed the issue of whether Ameren conducted a sufficient reevaluation of the SB HVAC after the first year of the program. He testified that the implementer provided

recommendations for improvement of the program and Ameren adopted those recommendations. Moreover, the implementer determined that adoption of those recommendations would yield a TRC greater than 1.0. Ameren Ex. 6.0, Woolcutt Surrebuttal at 7-8. It appears that Ameren acted in good faith when it followed the recommendation of the implementer to adjust the program and allow it to continue.

B. Statutory Analysis

The General Assembly's goal of providing cost effective energy efficiency to all customer classes would be hindered by the adoption of the Staff's proposal. The portion of the Act that defines the TRC test states, in part:

For purposes of this Section, "energy efficiency" means measures that reduce the amount of energy required to achieve a given end use and "cost-effective" means that the measures satisfy the total resource cost test which, for purposes of this Section, means a standard that is met if, for an investment in energy efficiency, the benefit-cost ratio is greater than one. The benefit-cost ratio is the ratio of the net present value of **the total benefits of the measures** to the net present value of the **total costs** as calculated over the lifetime of the measures. The total resource cost test compares the **sum of avoided natural gas utility costs**, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures, as well as other quantifiable societal benefits, including avoided electric utility costs, to **the sum of all incremental costs of end use measures** (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side measure, to quantify the net savings obtained by substituting demand-side measures for supply resources.

220 ILCS 5/8-104(b). (emphasis added)

As can be seen, Section 8-104(b) of the Act applies the TRC test to "total" costs and benefits and the "sum" of avoided and incremental costs; it does not apply the test to individual programs. The application of the TRC test to the portfolio rather than individual programs is made explicit in Section 8-104(f)(5) of the Act:

[E]ach gas utility shall . . .

(5) Demonstrate that its overall portfolio of energy efficiency and demand-response measures, not including programs covered by item (4) of this subsection (f), are cost-effective using the total resource cost test and represent a diverse cross-section of opportunities for customers of all rate classes to participate in the programs.

220 ILCS 5/8-104 (f)(5).

Thus, the Act requires that the “overall portfolio” meet the TRC test **and** that the overall portfolio provides a diverse cross-section of opportunities **and** that all rate classes can participate in the programs. Adoption of the Staff’s proposal would violate all three elements of Section 8-104(f)(5): (1) it would improperly apply the TRC test to an individual program, (2) it would reduce the range of programs, and (3) it would deny a class of customers the ability to participate in Ameren’s programs.

C. ICC Precedent Analysis

Significantly, the Staff’s proposal is also inconsistent with this Commission’s recent orders. In *North Shore Gas Company and The Peoples Light Gas and Coke Company*, Docket 10-0564 (Order, May 24, 2011) (“*North Shore / Peoples Gas*”) the Commission Staff made a recommendation similar to the one it is making here. The Staff proposed that the gas utilities only include individual measures that meet the TRC test. The Staff argued that adoption of its proposal would lower the risk of the overall portfolio not being cost effective. The Commission explicitly rejected such a recommendation, stating:

The Commission agrees with the Utilities that Section 8-104 does not require each measure to meet the TRC test, but it does require the portfolio (except for the low income portion) to meet the TRC test. The Commission declines to make the finding requested by Staff witness Brightwell.”

(*North Shore / Peoples Gas* at page 92).

The Commission has thus determined that it should use a broader standard and apply the TRC test to portfolios and not individual programs in the initial planning docket. There is no reason to unilaterally depart from established precedent and inexplicably reverse that position in a single reconciliation proceeding. In fact, given the retroactive nature of this reconciliation proceeding, there is even less justification for applying the TRC test to individual programs than in a planning docket.

The Commission's finding in *North Shore / Peoples Gas* was consistent with its previous finding in the 2008 Ameren planning docket. In that case, the Commission accepted the recommendation of the Illinois Department of Commerce and Economic Opportunity ("DCEO") that cost effectiveness be calculated at the portfolio level. The Commission provided its reasons for adopting the DCEO position:

Calculation of the total resource cost test at the portfolio level provides utilities with greater flexibility to ensure that measures with less short-term energy savings value, but greater value over several years, will be included in any overall portfolio of measures and programs. This contention is reasonable and it is hereby approved. However, the utilities and DCEO are not precluded from applying the TRC test at the "measure" or program level, if they so choose.

Central Illinois Light Company d/b/a AmerenCILCO, Central Illinois Public Service Company d/b/a AmerenCIPS and Illinois Power Company d/b/a AmerinIP, Approval of Energy Efficiency and Demand Response Plan, ICC Docket 07-0539 (Order Feb. 6, 2008) at 21.

NRDC agrees with the policy underlying the Commission's Order in Docket 07-0539. Utilities need flexibility to adopt programs with long term energy savings but uncertain savings in the initial years as well as programs that provide a broad range of opportunities to all customers. The Commission's rationale should be reaffirmed in this proceeding.

Finally, NRDC notes that Citizens Utility Board witness Rebecca Devens provided a policy analysis of the issue of applying the TRC test to individual programs rather than the

portfolio of programs. She concluded: “I believe Staff’s recommendations would prevent Illinois consumers from accessing the benefits of cost-effective energy efficiency as envisioned by the legislature.” CUB Ex. 1.0 at 15. NRDC concurs with that conclusion.

CONCLUSION

For the reasons stated above, the Commission should reject the adjustment recommended by the Commission Staff to disallow costs of the SB HVAC for program year 2.

Dated: May 7, 2013

Respectfully submitted,
Natural Resources Defense Council

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of Natural Resources Defense Council's Initial Brief has been served upon the parties reported by the Clerk of the Commission as being on the service list of this docket, on the 7th day of May, 2013, by electronic mail.

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